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10 **Attorneys for Defendant Senco Products, Inc.**

11  
12 **UNITED STATES DISTRICT COURT**  
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 JENS ERIK SORENSEN, As Trustee of  
15 SORENSEN RESEARCH AND  
DEVELOPMENT TRUST,

16 Plaintiff,

17 v.

18 SENCO PRODUCTS, INC. an Ohio  
19 Corporation; and DOES 1-100

20 Defendants.

CASE NO. 3:08-cv-00071-BTM-CAB

**NOTICE OF MOTION AND  
DEFENDANT'S MOTION TO STAY  
THE LITIGATION PENDING THE  
OUTCOME OF REEXAMINATION  
PROCEEDINGS**

Date: May 16, 2008  
Time: 11:00 a.m.  
Courtroom: 15  
Hon. Barry Ted Moskowitz

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23 NO ORAL ARGUMENT UNLESS  
REQUESTED BY THE COURT  
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1 NOTICE IS HEREBY GIVEN that on May 16, 2008, or as soon as thereafter as the matter may  
2 be heard by the above-entitled Court, located at 940 Front Street, San Diego, CA 92101, Defendant  
3 Senco Products Inc. ("SENCO") will and hereby respectfully moves for a stay of the above-captioned  
4 proceeding pending the reexaminations of the patent-in-suit, U.S. Patent No. 4,935,184 ("the '184  
5 Patent"), in the United States Patent & Trademark Office ("PTO"). Defendant's counsel conferred with  
6 Plaintiff's counsel regarding a stay prior to filing this motion, but Plaintiff has refused to consent to a  
7 stay.

8 This case is in its initial stages. On January 11, 2008, Sorensen Research Development and  
9 Trust ("SRDT") sued SENCO for alleged infringement of the '184 Patent. Defendant filed an answer  
10 and counterclaims on March 5, 2008. SRDT responded to the counterclaims on March 15, 2008. There  
11 has been no other activity in this case. In particular, there has not been a Rule 16 conference, the parties  
12 have not exchanged Rule 26 disclosures, an early neutral evaluation has not been scheduled (let alone  
13 even discussed), there has not been a scheduling conference, and there is no scheduling order or trial  
14 date set.

15 A stay will avoid the risk of unnecessary discovery and litigation, will permit the clarification of  
16 issues for trial, and will not unduly prejudice Plaintiff. Moreover, a stay of the present litigation is  
17 further warranted given that this Court has stayed at least five cases relating to the same '184 Patent. It  
18 would be a waste of judicial resources for this Court to proceed with this case while granting stays in  
19 related cases.

20 This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of  
21 Points and Authorities in Support of the Motion, the Declaration of Robert S. Mallin (all of which have  
22 been filed and served concurrently with this Notice of Motion and Motion), on the papers and records on  
23 file in this action, and on such other and further oral and documentary evidence as the Court may  
24 consider at the time of hearing.

25 For the reasons set forth in greater detail in the supporting memorandum, Defendant respectfully  
26 requests that the Court order this case stayed pending completion of the PTO's ongoing reexaminations  
27 of the '184 Patent.

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2 Date: March 24, 2008

MORRIS POLICH & PURDY, LLP

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